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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

14 PETER J. VOGGENTHALER; VICTOR ) CASE NO.  
15 BECERRA; ARTHUR BODENDORFER; )  
16 BRENDA C. CHAFFIN; MICHAEL J. SOLMI; )  
17 JASON COWLES; JANE GAUTHIER; )  
18 HONORÉ GAUTHIER; NIKOLAS )  
19 KONSTANTINOU; DRAGAN KURAJICA; )  
20 KENNETH LOWTHER; JAMES ) **COMPLAINT**  
21 LUEHMANN; JACQUELINE LUEHMANN; )  
22 RUTH MANNHEIMER; WILLIAM ) **[DEMAND FOR JURY TRIAL]**  
23 MONTERO; BARBARA MONTERO; )  
24 CLIFFORD ROGERS; SHARON ROGERS; )  
25 HERMANN ROSNER; MARKUS )  
26 ROTHKRANZ; DANIEL SOLDINI; )  
27 CHARLES WALKER; VERA WALKER; )  
28 JACK YENCHEK; OFELIA YENCHEK; )  
RUDELICH-HOPPE; PATRICIA MAHONEY, )  
individually and as trustee for the MAHONEY )  
LIVING TRUST; RICHARD FALEN; PETER )  
LEARNED; KRISTIAN MEIER; ELIZA )  
ACOSTA; MIRHA ELIAS; AIKO BERGE )  
Plaintiffs, )  
vs. )  
MARYLAND SQUARE, LLC; MARYLAND )  
SQUARE SHOPPING CENTER LIMITED )  
LIABILITY COMPANY; HERMAN KISHNER) )

1 dba MARYLAND SQUARE SHOPPING  
2 CENTER; IRWIN KISHNER, JERRY ENGEL, )  
3 BANK OF AMERICA as Trustees for the )  
4 HERMAN KISHNER TRUST; CLARK )  
5 COUNTY SCHOOL DISTRICT; THE )  
6 BOULEVARD MALL, as successor-in- )  
7 interest/surviving corporation/ agent for )  
8 BOULEVARD ASSOCIATES, L.L.C.; )  
9 BOULEVARD MALL I LLC, as successor-in- )  
10 interest/surviving corporation/ agent for )  
11 BOULEVARD ASSOCIATES, L.L.C.; )  
12 BOULEVARD MALL II L.L.C., as successor- )  
in-interest/surviving corporation/ agent for )  
CONSTRUCTION DEVELOPERS INC.; )  
FEDERATED WESTERN DEPT. STORES, )  
INC.; GENERAL GROWTH PROPERTIES; )  
MELVIN SHAPIRO; SHAPIRO BROS. )  
INVESTMENT CO.; DELIA'S CLEANERS )  
OF ARIZONA, INC.; CB RICHARD ELLIS )  
Defendants.  
)

14 Plaintiffs PETER J. VOGGENTHALER; VICTOR BECERRA; ARTHUR  
15 BODENDORFER; BRENDA C. CHAFFIN; MICHAEL J. SOLMI; JASON COWLES; JANE  
16 GAUTHIER; HONORÉ GAUTHIER; NIKOLAS KONSTANTINO; DRAGAN KURAJICA;  
17 KENNETH LOWTHER; JAMES LUEHMANN; JACQUELINE LUEHMANN; RUTH  
18 MANNHEIMER; WILLIAM MONTERO; BARBARA MONTERO; CLIFFORD ROGERS;  
19 SHARON ROGERS; HERMANN ROSNER; MARKUS ROTHKRANZ; DANIEL SOLDINI;  
20 CHARLES WALKER; VERA WALKER; JACK YENCHEK; OFELIA YENCHEK;  
21 RICHARD MALM; ROGER ELLSWORTH; JO ANN ELLSWORTH; MARGARET  
22 RUDELICH-HOPPE; PATRICIA MAHONEY, individually and as trustee for the MAHONEY  
23 LIVING TRUST; RICHARD FALEN; PETER LEARNED; KRISTIAN MEIER; ELIZA  
24 ACOSTA; AIKO BERGE (collectively referred to hereinafter as “Plaintiffs”), complain and  
25 allege as follows:

## **JURISDICTION AND VENUE**

27           1. Plaintiffs' claims against defendants MARYLAND SQUARE, LLC; MARYLAND  
28           SQUARE SHOPPING CENTER LIMITED LIABILITY COMPANY; HERMAN KISHNER dba

1 MARYLAND SQUARE SHOPPING CENTER; IRWIN KISHNER, JERRY ENGEL, BANK  
 2 OF AMERICA as Trustees for the HERMAN KISHNER TRUST; CLARK COUNTY SCHOOL  
 3 DISTRICT; THE BOULEVARD MALL, as successor-in-interest/surviving corporation/agent for  
 4 BOULEVARD ASSOCIATES, L.L.C.; BOULEVARD MALL I L.L.C., as successor-in-  
 5 interest/surviving corporation/ agent for BOULEVARD ASSOCIATES, LLC; BOULEVARD  
 6 MALL II LLC, as successor-in-interest/surviving corporation/ agent for BOULEVARD  
 7 ASSOCIATES, L.L.C.; CONSTRUCTION DEVELOPERS INC.; FEDERATED WESTERN  
 8 DEPT. STORES, INC.; GENERAL GROWTH PROPERTIES; MELVIN SHAPIRO; SHAPIRO  
 9 BROS. INVESTMENT CO.; DELIA'S CLEANERS OF ARIZONA, INC.; CB RICHARD  
 10 ELLIS (hereinafter collectively referred to as "Defendants") arise out of the environmental  
 11 contamination originating from the former site of an Al Philips the Cleaner dry cleaning facility  
 12 located in the Maryland Square Shopping Center located at 3661 South Maryland Parkway, Las  
 13 Vegas, Nevada and causing contamination and damage to nearby residential properties owned by  
 14 Plaintiffs (collectively referred to as the "Site").

15       2. This action primarily arises under the Federal Resource Conservation and Recovery  
 16 Act ("RCRA") 42 U.S.C. § 6972(a)(1)(B). Subject matter jurisdiction is confirmed upon this  
 17 Court pursuant to RCRA § 7002(a) and (b). The federal courts have original jurisdiction over all  
 18 civil actions arising under the Constitution, law or treaties of the United States. 28 U.S.C. §  
 19 1331.

20       3. Pursuant to 33 U.S.C. § 1365(c)(1), venue lies in this District as the acts, operations,  
 21 facilities, and real property of Plaintiffs and Defendants that are the subject of the this lawsuit  
 22 occurred and are located within this District.

### **THE PARTIES**

24       1. Plaintiff Peter. J. Voggenthaler, is an individual, and is and was an owner and  
 25 occupant of the real property located at 1629 Seneca Lane, Las Vegas, Nevada 89169.

26       2. Plaintiff Victor Becerra, is an individual, and is and was an owner and occupant of  
 27 the real property located at 1593 Seneca Lane, Las Vegas, Nevada 89169.

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1       3. Plaintiff Arthur Bodendorfer, is an individual, and is and was an owner and occupant  
2 of the real property located at 1638 Seneca Lane, Las Vegas, Nevada 89169.

3       4. Plaintiffs Brenda C. Chaffin and Michael J. Solmi, are individuals, and are and were  
4 owners and occupants of the real property located at 3617 Algonquin Drive, Las Vegas, Nevada  
5 89169.

6       5. Plaintiff Jason Cowles, is an individual, and is and was an owner and occupant of the  
7 real property located at 1598 Seneca Lane, Las Vegas, Nevada 89169.

8       6. Plaintiffs Jane Gauthier and Honore Gauthier, are individuals, and are and were  
9 owners and occupants of the real property located at 1667 Seneca Lane, Las Vegas, Nevada  
10 89169.

11       7. Plaintiff Nikolas Konstantinou, is an individual, and is and was an owner and  
12 occupant of the real property located at 1577 Ottawa Drive, Las Vegas, Nevada 89169.

13       8. Plaintiff Dragan Kurajica, is an individual, and is and was an owner and occupant of  
14 the real property located at 1656 Seneca Lane, Las Vegas, Nevada 89169.

15       9. Plaintiff Kenneth Lowther, is an individual, and is and was an owner and occupant of  
16 the real property located at 1647 Seneca Lane, Las Vegas, Nevada 89169.

17       10. Plaintiffs James Luehmann and Jacqueline Luehmann, are individuals, and are and  
18 were owners and occupants of the real property located at 1576 Ottawa Drive, Las Vegas,  
19 Nevada 89169.

20       11. Plaintiff Ruth Mannheimer, is an individual, and is and was an owner and occupant  
21 of the real property located at 1568 Seneca Lane, Las Vegas, Nevada 89169.

22       12. Plaintiffs William Montero and Barbara Montero, are individuals, and are and were  
23 owners and occupants of the real property located at 1630 Ottawa Drive, Las Vegas, Nevada  
24 89169.

25       13. Plaintiffs Clifford Rogers and Sharon Rogers, are individuals, and are and were  
26 owners and occupants of the real property located at 1725 Seneca Lane, Las Vegas, Nevada  
27 89169.

28       ///

1       14. Plaintiff Hermann Rosner, is an individual, and is and was an owner and occupant  
2 of the real property located at 3629 Algonquin Drive, Las Vegas, Nevada 89169.

3       15. Plaintiff Markus Rothkranz, is an individual, and is and was an owner and occupant  
4 of the real property located at 3619 Seneca Lane, Las Vegas, Nevada 89169.

5       16. Plaintiff Daniel Soldini, is an individual, and is and was an owner and occupant of  
6 the real property located at 1618 Seneca Lane, Las Vegas, Nevada 89169.

7       17. Plaintiffs Charles Walker and Verna Walker, are individuals, and are and were  
8 owners and occupants of the real property located at 3654 Algonquin Drive, Las Vegas, Nevada  
9 89169.

10      18. Plaintiffs Jack Yenck and Ofelia Yenck, are individuals, and are and were  
11 owners and occupants of the real property located at 1611 Seneca Lane, Las Vegas, Nevada  
12 89169.

13      19. Plaintiff Richard Malm, is an individual, and is and was an owner and occupant of  
14 the real property located at 1450 E. Twain, Las Vegas, Nevada 89169.

15      20. Plaintiffs Roger Ellsworth and Jo Ann Ellsworth are individuals, and are and were  
16 owners and occupants of the real property located at 3631 Seneca Lane, Las Vegas, Nevada  
17 89169.

18      21. Plaintiff Margaret Rudelich-Hoppe, is an individual, and is and was an owner and  
19 occupant of the real property located at 1594 Ottawa Drive, Las Vegas, Nevada 89169.

20      22. Plaintiff Patricia Mahoney, individually, and as trustee for the Mahoney Living  
21 Trust and Mahoney Living Trust, are and were owners and occupants of the real property located  
22 at 3666 Algonquin Drive, Las Vegas, Nevada 89169.

23      23. Plaintiff Richard Falen , is an individual, and is and was an owner and occupant of  
24 the real property located at 3581 Toga Way, Las Vegas, Nevada 89169.

25      24. Plaintiff Peter Learned, is an individual, and is and was an owner and occupant of  
26 the real property located at 3582 Algonquin Drive, Las Vegas, Nevada 89169.

27      25. Plaintiff Kristian Meier, is an individual, and is and was an owner and occupant of  
28 the real property located at 2177 Geronimo Way, Las Vegas, Nevada 89169.

1       26. Plaintiff Eliza Acosta, is an individual, and is and was an owner and occupant of the  
2 real property located at 3617 Ottawa Circle, Las Vegas, Nevada 89169.

3       27. Plaintiff Mirha Elias, is an individual, and is and was an owner and occupant of the  
4 real property located at 2107 Ottawa Drive, Las Vegas, Nevada 89169.

5       28. Plaintiff Aiko Berge, is an individual, and is and was an owner and occupant of the  
6 real property located at 1687 Seneca Lane, Las Vegas, Nevada 89169.

7       29. Defendant Maryland Square, LLC, is a limited liability company that at all times  
8 relevant herein is, and was, doing business in the Clark County, Nevada.

9       30. Defendant Maryland Square Shopping Center Limited Liability Company, is a  
10 limited liability company that at all times relevant herein is, and was, doing business in the Clark  
11 County, Nevada.

12       31. Defendant Herman Kishner dba Maryland Square Shopping Center, is an individual  
13 that at all times relevant herein is, and was, doing business in the Clark County, Nevada.

14       32. Defendants Irwin Kishner, Jerry Engel, Bank of America as Trustees for the Herman  
15 Kishner Trust, are trustees that at all times relevant herein is, and was, doing business in the  
16 Clark County, Nevada.

17       33. Defendant Clark County School District, is a public entity that at all times relevant  
18 herein is, and was, doing business in the Clark County, Nevada.

19       34. Defendant The Boulevard Mall, as successor-in-interest/surviving corporation/ agent  
20 for Boulevard Associates, L.L.C., is a corporation that at all times relevant herein is, and was,  
21 doing business in the Clark County, Nevada.

22       35. Defendant Boulevard Mall I LLC, as successor-in-interest/surviving corporation/  
23 agent for Boulevard Associates, L.L.C., is a limited liability company that at all times relevant  
24 herein is, and was, doing business in the Clark County, Nevada.

25       36. Defendant Boulevard Mall II LLC, as successor-in-interest/surviving corporation/  
26 agent for Boulevard Associates, L.L.C., is a limited liability company that at all times relevant  
27 herein is, and was, doing business in the Clark County, Nevada.

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1       37. Defendant Construction Developers Inc., is a corporation that at all times relevant  
2 herein is, and was, doing business in the Clark County, Nevada.

3           38. Defendant Federated Western Dept. Stores, Inc., is a corporation that at all times  
4 relevant herein is, and was, doing business in the Clark County, Nevada.

5           39. Defendant General Growth Properties, is a corporation that at all times relevant  
6 herein is, and was, doing business in the Clark County, Nevada.

7       40. Defendant Melvin Shapiro, is an individual that at all times relevant herein is, and  
8 was, doing business in the Clark County, Nevada.

9           41. Defendant Shapiro Bros. Investment Co., is a corporation that at all times relevant  
10 herein is, and was, doing business in the Clark County, Nevada.

42. Defendant Delia's Cleaners of Arizona, Inc., is a corporation that at all times  
relevant herein is, and was, doing business in the Clark County, Nevada.

13       43. Defendant CB Richard Ellis, is a corporation that at all times relevant herein is, and  
14 was, doing business in the Clark County, Nevada.

## **GENERAL ALLEGATIONS OF FACT**

16       44. Plaintiffs are owners of residential property near and at the Site. Plaintiffs'  
17 properties have been damaged and contaminated by the "Maryland Square PCE Plume" that  
18 originated from the former site of an Al Phillips the Cleaners dry cleaning facility in the  
19 Maryland Square Shipping Center.

20        45. Defendants' violations of RCRA stem from the ownership of the Site and the  
21 ownership and operation of a dry cleaning facility at the Site that has caused contamination of  
22 soil and groundwater at the Site. This contamination presents an imminent and substantial  
23 endangerment to human health and the environment.

24       46. Plaintiffs are informed and believe, and on that basis allege, that Melvin Shapiro  
25 and Shapiro Bros. Investment Co., individually and as various business entities, owned and  
26 operated a dry cleaning business known as Al Phillips the Cleaners in the Maryland Square  
27 Shopping Center from on or about 1968 to on or about 1984. Plaintiffs are informed and believe,  
28 and on that basis allege, that Melvin Shapiro and Shapiro Bros. Investment Co. used and

1 disposed of chlorinated solvents, including perchloroethylene (“PCE”), in their operation of the  
 2 dry cleaning business at the Site.

3       47. In 1984, Shapiro Bros. Investment Co. sold the Al Phillips the Cleaners business to  
 4 the Johnson Group, Inc. From on or about 1984 to on or about 1999, the Johnson Group, Inc.  
 5 owned and operated the Al Phillips the Cleaners in the Maryland Square Shopping Center.  
 6 Plaintiffs are informed and believe, and on that basis allege, that the Johnson Group, Inc. used  
 7 and disposed of chlorinated solvents, including PCE, in its operation of the dry cleaning business  
 8 at the Site.

9       48. Plaintiffs are informed and believe, and on that basis allege, that on or about 1999,  
 10 the Johnson Group sold its stock to Delia’s Cleaners and Delia’s Cleaners then caused the name  
 11 of Johnson Group, Inc., to be changed to DCI USA, Inc. From on or about 1999 to on or about  
 12 2000, Delia’s Cleaners and DCI USA, Inc. owned and operated the Al Phillips the Cleaners in  
 13 the Maryland Square Shopping Center. Plaintiffs are informed and believe, and on that basis  
 14 allege, that Delia’s Cleaners and DCI USA, Inc. used and disposed of chlorinated solvents,  
 15 including PCE, in their operation of the dry cleaning business at the Site.

16       49. Plaintiffs are informed and believe, and on that basis allege, that Melvin Shapiro,  
 17 Shapiro Bros. Investment Co., Al Phillips the Cleaners, the Johnson Group, Inc., Delia’s  
 18 Cleaners, DCI USA, Inc., National Dry Cleaners, Inc., and Delia’s Cleaners of Arizona  
 19 (hereinafter collectively referred to as “APTC”) are liable individually and/or as the parent  
 20 corporations, subsidiary corporations, owners, surviving entities, alter egos, agents, assignees  
 21 and/or successors-in-interest of each other and of Al Phillips the Cleaners.

22       50. Plaintiffs are informed and believe, and on that basis allege, that Maryland Square,  
 23 LLC and Maryland Square Shopping Center Limited Liability Company (hereinafter collectively  
 24 referred to as “MSSC”); Herman Kishner, dba Maryland Square Shopping Center; Irwin Kishner,  
 25 Jerry Engel and Bank of American as trustees of the Herman Kishner Trust (hereinafter  
 26 collectively referred to as “Kishner Trust”) and the Clark County School District (“School  
 27 District”) owns, and at all relevant times has owned, the property on which the dry cleaning  
 28 facility was located.

1       51. Plaintiffs are informed and believe, and on that basis allege, that Construction  
 2 Developers, Inc., Federated Western Dept. Stores, Inc., General Growth Properties, the  
 3 Boulevard Mall, Boulevard Mall I LLC and Boulevard Mall II LLC (hereinafter collectively  
 4 referred to as “Boulevard Mall”) at all relevant times have owned property at and/or contiguous  
 5 to the Site and on which contamination has occurred and migrated onto the Plaintiffs’ properties  
 6 unabated by these adjacent landowners.

7       52. Plaintiffs are informed and believe, and on that basis allege, that CB Richard Ellis  
 8 operated and managed the property on which a dry cleaning facility was located at the Site that  
 9 has caused contamination of soil and groundwater. CB Richard Ellis is the property manager for  
 10 property owner, Maryland Square, LLC, the current owner of the Site.

11       53. The presence of chlorinated solvent contamination of the soil and groundwater at  
 12 the Site was first reported in November 2000 to the Nevada Department of Environmental  
 13 Protection (“NDEP”). Subsequently, NDEP required investigation of the contamination by  
 14 MSSC. Investigations here revealed a chlorinated solvent plume extending underground from  
 15 the Site to the Injured Parties neighborhood. In 2004, NDEP issued an order that certain  
 16 investigative and remedial activities occur. This order, despite not being complied with, has not  
 17 been enforced. Despite knowledge since as early as July 2005 that the Injured Parties properties  
 18 were impacted by the chlorinated solvent plume, it was not until August 27, 2007 that public  
 19 notification letters were mailed by NDEP to certain property owners in the neighborhood. This  
 20 was the Injured Parties first notice of the existence of the PCE plume beneath their homes.  
 21 Subsequent indoor air samples collected by NDEP within certain Injured Parties homes have  
 22 reached and/or exceeded the U.S. Environmental Protection Agency health protective level for  
 23 long term exposure to PCE.

24       54. As a direct and proximate result of Defendants’ conduct, and each of them, the  
 25 condition of the Site was such that it resulted in the release of hazardous substances onto the Site,  
 26 and surrounding properties, soils, and groundwater, including Plaintiffs’ properties.

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**FIRST CAUSE OF ACTION**

**(RCRA, 42 U.S.C. § 6972(a)(1)(B))**

55. Plaintiffs reallege and incorporate by reference the allegations contained in  
Paragraphs 1 through 54 as though fully set forth herein.

56. Pursuant to 42 U.S.C. § 6972(b)(2)(A), on March 19, 2008, Plaintiffs duly notified  
Defendants Maryland Square, LLC; Maryland Square Shopping Center Limited Liability  
Company; Herman Kishner dba Maryland Square Shopping Center; Irwin Kishner, Jerry Engel,  
Bank of America as Trustees for the Herman Kishner Trust; Clark County School District;  
Boulevard Associates; Construction Developers Inc; Federated Western Dept. Stores, Inc.;  
General Growth Properties, the Administrator of the United States Environmental Protection  
Agency (“USEPA”), the Regional IX Administrator of the USEPA, the Bureau Chief of the  
Nevada Division of Environmental Protection, the Director of the Solid Waste Branch of the  
Bureau of Waste Management for the Nevada Division of Environmental Protection, and the  
Director of the Environmental Health Division for the Southern Nevada Health District, of the  
contamination at the Site and of Plaintiffs’ intent to bring this suit against Defendants. A true  
and correct copy of such notice is attached hereto as Exhibit “A”, and incorporated herein by this  
reference.

57. Pursuant to 42 U.S.C. § 6972(b)(2)(A), on April 3, 2008, Plaintiffs duly notified  
Defendants Melvin Shapiro; Shapiro Bros. Investment Co.; Delia’s Cleaners of Arizona, Inc., the  
Administrator of the USEPA, the Regional IX Administrator of the USEPA, the Bureau Chief of  
the Nevada Division of Environmental Protection, the Director of the Solid Waste Branch of the  
Bureau of Waste Management for the Nevada Division of Environmental Protection, and the  
Director of the Environmental Health Division for the Southern Nevada Health District, of the  
contamination at the Site and of Plaintiffs’ intent to bring this suit against Defendants. A true  
and correct copy of such notice is attached hereto as Exhibit “B”, and incorporated herein by this  
reference.

58. Pursuant to 42 U.S.C. § 6972(b)(2)(A), on April 4, 2008, Plaintiffs duly notified  
Defendant CB Richard Ellis, the Administrator of the USEPA, the Regional IX Administrator of

1 the USEPA, the Bureau Chief of the Nevada Division of Environmental Protection, the Director  
 2 of the Solid Waste Branch of the Bureau of Waste Management for the Nevada Division of  
 3 Environmental Protection, and the Director of the Environmental Health Division for the  
 4 Southern Nevada Health District, of the contamination at the Site and of Plaintiffs' intent to  
 5 bring this suit against Defendants. A true and correct copy of such notice is attached hereto as  
 6 Exhibit "C", and incorporated herein by this reference.

7       59. On June 18, 2008, Plaintiffs forwarded the Notice of Violation of RCRA letter of  
 8 March 19, 2008 naming Boulevard Associates to Defendants, the Boulevard Mall, Boulevard  
 9 Mall I LLC, and Boulevard Mall II LLC, as successors-in-interest to Boulevard Associates, and  
 10 notifying of the contamination at the Site and of Plaintiffs' intent to bring this suit against  
 11 Defendants. A true and correct copy of such notice is attached hereto as Exhibit "D", and  
 12 incorporated herein by this reference.

13       60. Plaintiffs instituted this action more than ninety (90) days after mailing of notice on  
 14 Defendants and others.

15       61. Plaintiffs duly served a copy of this Complaint on the United States Attorney  
 16 General and the Administrator of the USEPA by registered mail.

17       62. This action against Defendants is brought pursuant to the Citizen Suit provisions of  
 18 RCRA, 42 U.S.C. § 6972(a)(1)(B) et seq. and the applicable regulations thereunder, as such parts  
 19 were in effect at the appropriate times.

20       63. The PCE used and disposed of by Defendants at, around and adjacent to the Site is a  
 21 "hazardous waste" within the meaning of RCRA, 42 U.S.C. § 9603(5).

22       64. RCRA section 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B), provides that any person  
 23 may commence a civil action on its own behalf for appropriate relief against any person who is a  
 24 "past or present generator, past or present transporter, or past or present owner or operator of a  
 25 treatment, storage, or disposal facility, who has contributed or who is contributing to the past or  
 26 present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste  
 27 which may present an imminent and substantial endangerment to health or the environment."

28       ///

1       65. Plaintiffs are informed and believe, and on that basis allege, that the primary cause  
 2 of the releases of hazardous wastes at the Site was a result of Defendants' disposal, handling,  
 3 transportation, release and/or abandonment of hazardous waste.

4       66. Defendants discharged and permitted the discharge of PCE to the soil and  
 5 groundwater by: their operation of dry cleaning machinery at the site, their use and disposal of  
 6 chlorinated solvents; their operation and control of the disposal and sewer systems at the Site;  
 7 their ownership of the Site; and their ownership of property at and/or contiguous to the Site on  
 8 which contamination has occurred and migrated onto the Plaintiffs' properties unabated by these  
 9 landowners.

10      67. As owners and operators of the dry cleaning facility, the Site and the sewer system at  
 11 the Site, Defendants are past and present generators, past and present transporters, and past and  
 12 present owners and operators of a treatment, storage and/or disposal facility.

13      68. Defendants have knowingly contributed and are contributing to the past and present  
 14 handling, storage, treatment transportation and disposal of solid and hazardous waste which  
 15 presents an imminent and substantial endangerment to human health and the environment. The  
 16 endangerment caused by Violators has been ongoing since 1969 and is continuing in nature.

17      69. The discharge and threatened discharge of contaminants has unreasonably affected  
 18 water quality in that the discharge or threatened discharge is deleterious to the beneficial uses of  
 19 state waters, and has impaired water quality to a degree which creates a threat to public health.  
 20 The conditions threaten to continue unless the discharge or threatened discharge is permanently  
 21 cleaned up and abated.

22      70. Plaintiffs are informed and believe, and on that basis allege, that the hazardous waste  
 23 contamination resulting from Defendants disposal, handling, transportation, release and/or  
 24 abandonment of hazardous waste, as detailed above, presents an imminent and substantial  
 25 endangerment to health and/or the environment as hazardous wastes have infiltrated to the soil  
 26 and groundwater in and around the Site. The impact of the pollution on the environment has  
 27 already occurred and is occurring and is substantial because significant quantities of toxic  
 28 substances have been released into the soil and groundwater and have impaired the beneficial use

of the groundwater beneath the Site. The evaporation of PCE in groundwater at the Site and below Plaintiffs' residences has caused vapor intrusion of PCE into Plaintiffs' residences and has degraded the indoor air quality of Plaintiffs' residences.

4           71. Plaintiffs seek injunctive relief under RCRA ordering Defendants to take such action  
5 as may be necessary to address and abate the contamination at the Site, including without  
6 limitation: to comply with any and all requirements of cleanup and abatement orders; expend  
7 funds to further investigate, test, assess, study, monitor, and remediate the contamination at the  
8 Site through the issuance of a “no further action” letter or other similar letter or documents  
9 indicating that the Site has been remediated.

10       72. Pursuant to section 42 U.S.C. 6972(e), Plaintiffs seek an award of the costs of this  
11 litigation, including reasonable attorneys' fees and expert fees, including such fees to monitor  
12 Defendants' compliance with any orders or judgment issued by this Court.

## PRAAYER FOR RELIEF

14 WHEREFORE, Plaintiffs pray to this Court for the following relief:



25 | //

26 | //

27 | //

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1                   **DEMAND FOR JURY TRIAL**

2                   Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury  
3 on all issues so triable.

4 Dated: November 17, 2008

ROBERTSON & VICK, LLP

5  
6 By \_\_\_\_\_/S/*Jennifer L. Taylor*  
7 ALEXANDER ROBERTSON, IV  
8 NV Bar No. 8642  
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14                   **Attorneys for Plaintiffs**